

REMARKS

This responds to the Office Action dated April 21, 2008. In this response, no claims are amended, no claims are canceled, and no claims are added. Thus, claims 1-4, 9-16 and 20-35 remain pending in this application. Applicant respectfully traverses the rejections as set forth in detail below:

§ 103 Rejection of the Claims

Claims 20-24 and 26

Claims 20-24 and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Weinfurter et al. (US 6,035,050, "Weinfurter") in view of Watanabe et al. (US 6,148,274, "Watanabe"). Applicant respectfully traverses the rejection for at least the following reasons.

In paragraph 2, the Office Action states:

Applicant's arguments, filed 1/22/08 with respect to the rejections of claims 21, 24-26 under 103(a) have been fully considered and are persuasive. Therefore the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Watanabe and Holland.

However, the current rejection of claims 21 and 24-26 makes no mention of Holland, and relies only on Weinfurter and Watanabe, similar to the previous (withdrawn) rejection. In addition, Holland is cited (below with respect to claims 1-4, 10 and 11) for "crossover involving the selection of a string position at random, splitting parent classifiers at a position, and exchanging parts to form two new child classifiers which replace the weakest (lowest strength classifiers)", Office Action, bottom of page 11). Applicant respectfully asserts that this assertion of Holland is not relevant to claims 21 and 24-26. Also, it is respectfully submitted Holland is non-analogous art as it deals with an adaptive computer system using a bucket brigade algorithm. Applicant can find no mention in Holland of any application relating to hearing aids.

Furthermore, it is respectfully submitted that Watanabe does not relate to selection of pairs as provided by the present application. Among other differences, Watanabe's references to an "evaluation value" and "fitness" appear to be a form of ranking using many levels of fitness.

With respect to independent claim 20, Applicant is unable to find in the cited portions of the cited references, among other things, a teaching or suggestion of a hearing aid including a

memory having a first population stored therein, the first population comprising a plurality of parent sets, each of the parent sets having at least one parameter, a toggle device for toggling between a first pair of the plurality of parent sets, a select indicator for selecting a preferred one set of the first pair, and a processor for ranking a hierarchy of the plurality of parent sets, as recited in claim 20.

With respect to independent claim 21, Applicant is unable to find in the cited portions of the cited references, among other things, a teaching or suggestion of a hearing aid including a memory having a first population stored therein, the first population comprising a plurality of parent sets, each of the parent sets having at least one parameter, a toggle device for toggling between a first pair of the plurality of parent sets, a select indicator for selecting a preferred one set of the first pair, and a processor for assigning a probability of selection by the select indicator to the plurality of parent sets, as recited in claim 21.

With respect to independent claim 22, Applicant is unable to find in the cited portions of the cited references, among other things, a teaching or suggestion of a hearing aid including a memory having a first population stored therein, the first population comprising a plurality of parent sets, each of the parent sets having at least one parameter, a toggle device for toggling between a first pair of the plurality of parent sets, and a select indicator for selecting a preferred one set of the first pair, where the plurality of parent sets comprises at least a first, second and third set, further comprising a genetic algorithm for deciding which of the first, second and third sets becomes the first pair, as recited in claim 22.

With respect to independent claim 23, Applicant is unable to find in the cited portions of the cited references, among other things, a teaching or suggestion of a hearing aid including a memory having a first population stored therein, the first population comprising a plurality of parent sets, each of the parent sets having at least one parameter, a toggle device for toggling between a first pair of the plurality of parent sets, a select indicator for selecting a preferred one set of the first pair, and a genetic algorithm operator for performing one of mutation and crossover on at least one set of the plurality of parent sets thereby forming a child set, as recited in claim 23. Claim 24 depends directly on independent claim 23 and is believed to be in condition for allowance at least for the reasons provided with respect to claim 23.

With respect to independent claim 26, Applicant is unable to find in the cited portions of the cited references, among other things, a teaching or suggestion of a hearing aid including a memory having a first population stored therein, the first population comprising a plurality of parent sets, each of the parent sets having at least one parameter, a toggle device for toggling between a first pair of the plurality of parent sets, and a select indicator for selecting a preferred one set of the first pair, where the toggle device toggles between a plurality of pairs of the plurality of parent sets, further comprising a processor for converging the plurality of pairs to a single solution set, as recited in claim 26.

Applicant respectfully requests reconsideration and allowance of claims 20-24 and 26.

Claims 1-4, 10 and 11

Claims 1-4, 10 and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Weinfurter in view of Watanabe and in further view of Holland et al. (US 4,697,242, "Holland"). Applicant respectfully traverses the rejection for at least the following reasons.

Applicant respectfully traverses the rejection based on a combination of Weinfurter, Watanabe and Holland, since there is no teaching in Weinfurter, Watanabe or Holland of a system of fitting a hearing aid as taught in the specification or recited in the claims. Further, it is respectfully submitted that Holland does not relate to hearing aid fitting as provided by the present application and thus it is respectfully submitted that Holland is non-analogous art, as it relates to an adaptive computer system using a bucket brigade algorithm. Applicant can find no mention in Holland of any application relating to hearing aids. Clarification or withdrawal of the reference is respectfully requested in the next Official Communication.

With respect to independent claim 1, Applicant is unable to find in the cited portions of the cited references, among other things, a teaching or suggestion of an apparatus for fitting a hearing aid by its wearer including a memory adapted to store a first population comprising a plurality of parent sets, a toggle device adapted to toggle between a pair of the plurality of parent sets, a select indicator for selecting a preferred one set of the pair, a communications link adapted to connect with the hearing aid, and a processor adapted to provide signals to the hearing aid to change operation of the hearing aid based on each parent set, to allow the wearer to select one preferred set for each pair of parent sets, to record a ranking of parent sets, assign probabilities of

selection of parent sets, crossover and/or mutate at least one parent set, and replace weakest parent sets with a child set, as recited in claim 1. Claims 2-4, 10 and 11 depend directly on independent claim 1 and are believed to be in condition for allowance at least for the reasons provided with respect to claim 1.

Applicant respectfully requests reconsideration and allowance of claims 1-4, 10 and 11.

Allowable Subject Matter

Applicant acknowledges the allowance of claims 12-16 and 27-35.

Claims 9 and 25 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant respectfully asserts that the base claims for these claims are in condition for allowance, and hence these dependent claims are in condition for allowance. Applicant respectfully requests reconsideration and allowance of claims 9 and 25.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (612) 373-6912 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

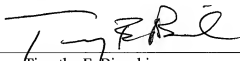
Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6912

Date

July 21, 2008

By


Timothy E. Bianchi
Reg. No. 39,610

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 21 day of July, 2008.

CANDIS BUENDING

Name

Signature

